

## Department of State

## § 130.9

### § 130.8 Vendor.

(a) *Vendor* means any distributor or manufacturer who, directly or indirectly, furnishes to an applicant or supplier defense articles valued in an amount of \$500,000 or more which are end-items or major components as defined in § 121.8 of this subchapter. It also means any person who, directly or indirectly, furnishes to an applicant or supplier defense articles or services valued in an amount of \$500,000 or more when such articles or services are to be delivered (or incorporated in defense articles or defense services to be delivered) to or for the use of the armed forces of a foreign country or international organization under:

(1) A sale requiring a license or approval from the Office of Defense Trade Controls under this subchapter; or

(2) A sale pursuant to a contract with the Department of Defense under section 22 of the Arms Export Control Act (22 U.S.C. 2762).

(b) [Reserved]

### § 130.9 Obligation to furnish information to the Office of Defense Trade Controls.

(a)(1) Each applicant must inform the Office of Defense Trade Controls as to whether applicant or its vendors have paid, or offered or agreed to pay, in respect of any sale for which a license or approval is requested:

(i) Political contributions in an aggregate amount of \$5,000 or more, or

(ii) Fees or commissions in an aggregate amount of \$100,000 or more.

If so, applicant must furnish to the Office of Defense Trade Controls the information specified in § 130.10. The furnishing of such information or an explanation satisfactory to the Director of the Office of Defense Trade Controls as to why all the information cannot be furnished at that time is a condition precedent to the granting of the relevant license or approval.

(2) The requirements of this paragraph do not apply in the case of an application with respect to a sale for which all the information specified in § 130.10 which is required by this section to be reported shall already have been furnished.

(b) Each supplier must inform the Office of Defense Trade Controls as to

whether the supplier or its vendors have paid, or offered or agreed to pay, in respect of any sale:

(1) Political contributions in an aggregate amount of \$5,000 or more, or

(2) Fees or commissions in an aggregate amount of \$100,000 or more.

If so, supplier must furnish to the Office of Defense Trade Controls the information specified in § 130.10. The information required to be furnished pursuant to this paragraph must be so furnished no later than 30 days after the contract award to such supplier, or such earlier date as may be specified by the Department of Defense. For purposes of this paragraph, a contract award includes a purchase order, exercise of an option, or other procurement action requiring a supplier to furnish defense articles or defense services to the Department of Defense for the purposes of section 22 of the Arms Export Control Act (22 U.S.C. 2762).

(c) In determining whether an applicant or its vendors, or a supplier or its vendors, as the case may be, have paid, or offered or agreed to pay, political contributions in an aggregate amount of \$5,000 or more in respect of any sale so as to require a report under this section, there must be included in the computation of such aggregate amount any political contributions in respect of the sale which are paid by or on behalf of, or at the direction of, any person to whom the applicant, supplier or vendor has paid, or offered or agreed to pay, a fee or commission in respect of the sale. Any such political contributions are deemed for purposes of this part to be political contributions by the applicant, supplier or vendor who paid or offered or agreed to pay the fee or commission.

(d) Any applicant or supplier which has informed the Office of Defense Trade Controls under this section that neither it nor its vendors have paid, or offered or agreed to pay, political contributions or fees or commissions in an aggregate amount requiring the information specified in § 130.10 to be furnished, must subsequently furnish such information within 30 days after learning that it or its vendors had paid, or offered or agreed to pay, political contributions or fees or commissions in respect of a sale in an aggregate amount

## § 130.10

## 22 CFR Ch. I (4–1–05 Edition)

which, if known to applicant or supplier at the time of its previous communication with the Office of Defense Trade Controls, would have required the furnishing of information under § 130.10 at that time. Any report furnished under this paragraph must, in addition to the information specified in § 130.10, include a detailed statement of the reasons why applicant or supplier did not furnish the information at the time specified in paragraph (a) or paragraph (b) of this section, as applicable.

### **§ 130.10 Information to be furnished by applicant or supplier to the Office of Defense Trade Controls.**

(a) Every person required under § 130.9 to furnish information specified in this section in respect to any sale must furnish to the Office of Defense Trade Controls:

(1) The total contract price of the sale to the foreign purchaser;

(2) The name, nationality, address and principal place of business of the applicant or supplier, as the case may be, and, if applicable, the employer and title;

(3) The name, nationality, address and principal place of business, and if applicable, employer and title of each foreign purchaser, including the ultimate end-user involved in the sale;

(4) Except as provided in paragraph (c) of this section, a statement setting forth with respect to such sale:

(i) The amount of each political contribution paid, or offered or agreed to be paid, or the amount of each fee or commission paid, or offered or agreed to be paid;

(ii) The date or dates on which each reported amount was paid, or offered or agreed to be paid;

(iii) The recipient of each such amount paid, or intended recipient if not yet paid;

(iv) The person who paid, or offered or agreed to pay such amount; and

(v) The aggregate amounts of political contributions and of fees or commission, respectively, which shall have been reported.

(b) In responding to paragraph (a)(4) of this section, the statement must:

(1) With respect to each payment reported, state whether such payment was in cash or in kind. If in kind, it

must include a description and valuation thereof. Where precise amounts are not available because a payment has not yet been made, an estimate of the amount offered or agreed to be paid must be provided;

(2) With respect to each recipient, state:

(i) Its name;

(ii) Its nationality;

(iii) Its address and principal place of business;

(iv) Its employer and title; and

(v) Its relationship, if any, to applicant, supplier, or vendor, and to any foreign purchaser or end-user.

(c) In submitting a report required by § 130.9, the detailed information specified in paragraph (a)(4) and (b) of this section need not be included if the payments do not exceed:

(1) \$2,500 in the case of political contributions; and

(2) \$50,000 in the case of fees or commissions.

In lieu of reporting detailed information with respect to such payments, the aggregate amount thereof must be reported, identified as miscellaneous political contributions or miscellaneous fees or commissions, as the case may be.

(d) Every person required to furnish the information specified in paragraphs (a) and (b) of this section must respond fully to each subdivision of those paragraphs and, where the correct response is none or not applicable, must so state.

### **§ 130.11 Supplementary reports.**

(a) Every applicant or supplier who is required under § 130.9 to furnish the information specified in § 130.10 must submit a supplementary report in connection with each sale in respect of which applicant or supplier has previously been required to furnish information if:

(1) Any political contributions aggregating \$2,500 or more or fees or commissions aggregating \$50,000 or more not previously reported or paid, or offered or agreed to be paid by applicant or supplier or any vendor;

(2) Subsequent developments cause the information initially reported to be no longer accurate or complete (as in the case where a payment actually made is substantially different in